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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,664	11/25/2003	S. Curtis Nye	15499.398.1	7674

7590 12/28/2004

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,664

Applicant(s)

NYE ET AL

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-16, 18-26, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 17, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/23.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-14, 19-23, 24, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Schickert et al (6004231). Schickert discloses

a backboard (11) including a front surface, a rear surface, a first side and a second side a first weight positioned proximate the first side of the backboard; a second weight positioned proximate the second side of the backboard; and a rim positioned proximate the front surface of the backboard; wherein the first weight (240) and the second weight (276) are sized and configured to enhance the rebounding characteristics of the backboard (fig 1, 22). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claims 7 and 30 : Schickert discloses a first and second weights constructed from generally rigid materials (5:42-50).

As to claims 8, and 19 : Schickert discloses a reinforcement structure extending from the first side to the second side of the backboard (fig 5 and 22,).

As to claims 9, 12, 20 and 23 : Schickert discloses a reinforcement member disposed about the periphery of the backboard (fig 5).

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As to claims 10, 11, 19 and 22 : Schickert discloses a first and second weight forming a portion of a reinforcement structure and an elongated member extending from the first side to the second side (fig 22 items 240,276).

As to claim 13 : Schickert discloses removable weights (fig 22, 23). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claims 14 and 24 : See claim 1 rejection.

As to claim 21: Schickert discloses a first weight and second weight forming at least a portion of the reinforcing structure (fig 5).

Also,

Claims 1-3, 7-12, 14-16, 19-23, 24-26, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (4424968). Smith discloses

a backboard (10) including a front surface, a rear surface, a first side and a second side a first weight positioned proximate the first side of the backboard; a second weight positioned proximate the second side of the backboard; and a rim positioned proximate the front surface of the backboard; wherein the first weight (13) and the second weight (12) are sized and configured to enhance the rebounding characteristics of the backboard (fig 1, 5). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

The backboard is considered item 14.

As to claims 2, 15, and 25 : Smith discloses a first and second weights partially disposed within the backboard (fig 3).

As to claims 3, 16 and 26 : Smith discloses a first and second openings partially disposed within the backboard (fig 3). The weight at point 16 is considered partially disposed.

As to claim 7 and 30 : Smith discloses a first and second weights constructed from generally rigid materials (2:57-60).

As to claims 8, and 19 : Smith discloses a reinforcement structure extending from the first side to the second side of the backboard (fig 5).

As to claims 9, 12, 20 and 23 : Smith discloses a reinforcement member disposed about the periphery of the backboard (fig 1, 5).

As to claims 10, 11, 19 and 22 : Smith discloses a first and second weight forming a portion of a reinforcement structure and an elongated member extending from the first side to the second side (fig 5). The intersection of the reinforcing member 30 with the weights at points 31 and 32 meet this limitation.

As to claims 14 and 24 : See claim 1 rejection.

As to claim 21: Smith discloses a first weight and second weight forming at least a portion of the reinforcing structure (fig 5).

Also,

Claims 1, 7-9, 12,14,20,23,24,and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearo (4285518). Pearo discloses

a backboard (10) including a front surface, a rear surface, a first side and a second side a first weight positioned proximate the first side of the backboard; a second weight positioned proximate the second side of the backboard; and a rim positioned

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proximate the front surface of the backboard; wherein the first weight (50) and the second weight (32) are sized and configured to enhance the rebounding characteristics of the backboard (fig 1, 5). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 7 and 30 : Pearo discloses a first and second weights constructed from generally rigid materials (fig 5, items 32, 50).

As to claims 8, and 19 : Pearo discloses a reinforcement structure extending from the first side to the second side of the backboard (fig 5).

As to claims 9, 12, 20 and 23 : Pearo discloses a reinforcement member disposed about the periphery of the backboard (fig 5 item 50).

As to claims 14 and 24 : See claim 1 rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6,18 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schickert in view of claim 1.

Claims 6,18 and 29 are product by process claims which are not considered patentable if the device of Schickert meets the limitations of the independent claim. No criticality is

seen in the type of process used to manufacture the device. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed any one of several equivalent means of manufacture such as rotational molding or injection molding based on cost and design considerations.

Allowable Subject Matter

Claims 4,5,17,27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4285518*6004231*4424968

Michael Chambers
Examiner
Art Unit 3711

December 20, 2004


GREGORY VIDOVICH
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